Order dated 14th July, 2005

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 9133 of 2005

For Approval and Signature:

HON'BLE MR JUSTICE M.R. SHAH

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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KANTIBHAI AMBALAL PATEL - Petitioner(s)

Versus

ALIEN RECOVERY OFFICER & 1 - Respondent(s)

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Appearance :

MRHARSHADKPATEL for Petitioner No(s).: 1.

Mr. H.D. Dave, AGP for Respondent No(s).: 1.

None for Respondent No(s).: 2.

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CORAM :HON'BLE MR JUSTICE M.R. SHAH

Date : 14/07/2005

ORAL JUDGMENT

Heard Shri Harshad K. Patel, learned advocate appearing for the petitioner; one Shri SB Chaudhry on behalf of respondent No.2 workman; and Shri Hasit D. Dave, learned AGP on behalf of respondent No.1.

2. In this petition under Article 226 / 227 of the Constitution of India, the petitioner management has challenged the legality and validity of the notices dated 21.4.2005 and 3.2.2005 issued for recovery by the respondent No.1 of the amount as per judgment and award passed by the Labour Court, Ahmedabad dated 21.1.2002 in Reference (LCA) No. 2046 of 1993.

3. Shri Harshad Patel, learned advocate has submitted that the judgment and award passed by the Labour Court, Ahmedabad in Reference (LCA) No. 2046 of 1993 was an ex-parte award and the petitioner has already filed one Miscellaneous Application No. 293 of 2004 under Rule 26(A) of the Industrial Dispute (Gujarat) Rules for setting aside the ex-parte judgment and award and the last date of hearing was 11th July 2005 and the next date being 25th September 2005. He has further submitted that if the notices are not stayed then in that case the application submitted by the petitioner for getting the ex-parte award set aside would become infructuous.

3. Shri Chaudhry, representative of the respondent No.2 worman has submitted that the award has been passed as far back as on 21st January 2002 and even in the Recovery Application the order was passed on 10th March 2003; restoration application has been submitted in 2004 only; and now as the matter is

adjourned to 25th September 2005 it will delay the proceedings.

4. Considering the aforesaid facts and circumstances and considering one another order passed by the learned Single Judge of this Court dated 2.3.2005 in Special Civil Application No. 16946 of 2004, the Labour Court, Ahmedabad is directed to decide the Miscellaneous Application No. 293 of 2004 in Reference (LCA) No. 2046 of 1993 as early as possible preferably within the period of 4 weeks from the date of receipt of this order. Until then, the order passed by the Labour Court, Ahmedabad, in Recovery Application No. 1373 of 2002 is stayed. The petitioner is directed to cooperate in early disposal of the aforesaid application and should not seek any unnecessary adjournment.

5. With the aforesaid observations and directions, the present Special Civil Application is disposed of at this stage. Rule is made absolute to the aforesaid extent. Direct service is permitted.

[M.R. Shah, J.]

RMR